

[counsel identified on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RAMBUS INC.,

Plaintiff,

v.

NVIDIA CORPORATION,

Defendant.

and

NVIDIA CORPORATION

Plaintiff,

v.

RAMBUS, INC.,

Defendant.

Case No. C-08-03343 SI

Case No. C-08-05500 SI

**STIPULATION AND [PROPOSED]
ORDER**

1 Rambus Inc. and NVIDIA Corporation (collectively, the “Parties”) hereby submit the
2 following joint stipulation and proposed order to apprise the Court of the status of related
3 proceedings and to seek rescheduling of the June 18, 2010 case management conference for August
4 27, 2010:

5 **The Proceeding in the International Trade Commission**

6 The Parties are involved in a related proceeding pending in the International Trade
7 Commission, *In the Matter of Certain Semiconductor Chips Having Synchronous Dynamic*
8 *Random Access Memory Controller and Products Containing Same*, Inv. No. 337-TA-661
9 (U.S.I.T.C.) (the “ITC Action”). On January 22, 2010, the ITC court issued a Notice Regarding
10 Initial Determination indicating a Final Determination would issue on May 24, 2010. The Final
11 Determination did not issue on May 24, 2010. On May 26, 2010, the ITC issued a Notice of
12 Extension of Target Date; Request for Further Briefing, which set a new Final Determination date
13 of July 26, 2010. If the Final Determination includes an exclusion order, there will be a 60-day
14 period during which the President of the United States may overturn the exclusion order. The
15 Commission’s decision then can be appealed to the Federal Circuit.

16 **The Proceedings in the U.S. Patent and Trademark Office**

17 The U.S. Patent and Trademark Office is conducting *inter partes* reexaminations of the 15
18 remaining patents-in-suit in this action. Although the PTO has taken at least some action with
19 respect to each of the 15 patents, the reexamination process has not yet concluded for any of the
20 patents. After the patent examiner completes review of each reexamination, an appeal of that
21 reexamination can be brought before the PTO’s Board of Patent Appeals and Interferences and then
22 to the Federal Circuit.

23 **The Proceedings in the Federal Circuit**

24 The Federal Circuit is reviewing the decisions in *Hynix Semiconductor, et al. v. Rambus,*
25 *Inc.*, No. C-00-20905 (RMW (N.D. Cal.)), and *Micron Technology, Inc. v. Rambus, Inc.*, Civ. No.
26 00-792-SLR (D. Del.). See Docket No. 120 (referencing pendency of appeal in *Hynix* and *Micron*
27 cases). Oral argument was held on April 5, 2010, but no opinion has issued yet.
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1 **Initial Phase of this Action**

2 The Court entered a Protective Order on April 21, 2009. The Court entered Orders on April
3 13, 2009 and June 18, 2009, governing discovery in this case, which among other things
4 implemented an initial phase of discovery limited to document production from other proceedings,
5 including but not limited to the ITC Action. On August 5, 2009, the Court ordered, pursuant to the
6 Parties' stipulation, that the initial phase of discovery should continue until the February 12, 2010
7 case management conference. On January 26, 2010, the Court ordered, pursuant to the Parties'
8 stipulation, that the initial phase of discovery should continue until the March 12, 2010 case
9 management conference. On March 1, 2010, the Court ordered, pursuant to the Parties' stipulation,
10 that the initial phase of discovery should continue until the June 18, 2010 case management
11 conference.

12 The Parties are meeting and conferring regarding NVIDIA's proposals to amend the
13 Court's April 21, 2009 Protective Order, including without limitation paragraph 7.3(b) regarding
14 in-house counsel access to information that is designated "HIGHLY CONFIDENTIAL –
15 ATTORNEYS' EYES ONLY" pursuant to the Protective Order. NVIDIA and Rambus each
16 represent that none of their in-house counsel has accessed the other party's materials designated
17 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" in this action. The Parties intend to
18 further minimize burden and inefficiency by reaching a stipulation without the need to engage in
19 motion practice at this time to resolve any dispute regarding the Protective Order

20 In light of the foregoing, Rambus and NVIDIA hereby stipulate as follows:

21 1. The case management conference scheduled for June 18, 2010, at 3:00 p.m. should
22 be rescheduled for August 27, 2010, at 3:00 p.m., and the case management statement should be
23 filed no later than August 20, 2010;

24 2. The initial phase of discovery should continue until the August 27, 2010 case
25 management conference;

26 3. Notwithstanding the Protective Order's provision to the contrary, materials that are
27 designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" shall not be made
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1 available to in-house counsel for any party before August 31, 2010, unless the parties otherwise
2 agree or the Court so orders. If the August 31, 2010 date is not extended by stipulation or a Court
3 order and a party files no later than August 30, 2010, a motion to amend the Protective Order with
4 respect to in-house counsel access, materials that are designated “HIGHLY CONFIDENTIAL –
5 ATTORNEYS’ EYES ONLY” shall not be made available to in-house counsel for any party until
6 final resolution of the motion, including any and all appeals to the district court of the Special
7 Master’s ruling on that motion.

8 4. In view of the Stipulation addressing discovery matters in the interim, neither party
9 may file a motion in this matter until August 18, 2010.

10 5. Nothing in this Stipulation affects a party’s right, pursuant to the terms of the
11 Protective Order, to challenge the designation of a document as “HIGHLY CONFIDENTIAL –
12 ATTORNEYS’ EYES ONLY.”
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1 Dated: June 4, 2010

ORRICK, HERRINGTON & SUTCLIFFE LLP

2
3 /s/ David M. Goldstein

4 David M. Goldstein
5 Attorneys for NVIDIA Corporation

6 405 Howard Street
7 San Francisco, CA 94105
8 Telephone: (415) 773-4255
9 Facsimile: (415) 773-5759
10 Email: dgoldstein@orrick.com

11 Dated: June 4, 2010

MCKOOL SMITH

12 /s/ Pierre Hubert

13 Pierre Hubert
14 Attorneys for Rambus Inc.

15 300 West 6th Street, Suite 1700
16 Austin, TX 78701
17 Telephone: (512) 692-8700
18 Facsimile: (512) 692-8744
19 Email: phubert@mckoolsmith.com

20 CROWELL & MORING LLP
21 Karen J. Petrulakis (CSB No. 168732)
22 Attorneys for Rambus Inc.
23 275 Battery Street, 23rd Floor
24 San Francisco, CA 94111
25 Telephone: (415) 986-2800
26 Facsimile: (415) 986-2827
27 Email: kpetrulakis@crowell.com

28 **SO ORDERED:**



Dated: June __, 2010

HONORABLE SUSAN ILLSTON
United States District Judge